

recording by a second person on [with] a recording device in a predetermined encoded indicia format the patient medical information communicated by the first person during the physical examination of the patient;

processing said predetermined encoded indicia [the patient medical information] recorded by the recording device to produce in a programmable format a patient report containing the patient medical information; and

comparing the patient medical information on the patient report with the patient medical information recorded by the recording device in said predetermined encoded indicia format to verify the accuracy of the patient medical information on the patient report.

#### ADDITIONAL FEES

No additional fees are deemed due herein. However, if any additional fees are required, please charge the same to Deposit Account No. 13-2515.

#### REMARKS

Claims 1 through 33 are pending in the Application.

In reviewing the Specification, several inadvertent typographical errors were noted. Accordingly, the Specification has been amended to correct the inadvertent typographical errors. No new matter has been added in making these corrections.

**Claim Rejections - 35 USC §101**

The Examiner rejected Claim 1 under 35 USC § 101. In making the rejection, the Examiner stated as follows:

Claim 1 is rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. A recording person, in paragraph 2, cannot be claimed.

Claim 1 has been amended to overcome the Examiner's rejection of the claim under 35 USC § 101.

Specifically, Claim 1 has deleted reference to "person" and replaced the same with the word --means-- such that claim now refers to "a recording means". The recording means, as disclosed in the Specification can be a person, a form, a computer, a computer input device or other device or member, all as described in the Specification.

Other portions of Claims 1 has been amended in order to be consistent with the phrase "a recording means".

For all these reasons, the Examiner's rejection of Claim 1 under 35 U.S.C. § 101 has been overcome.

**Claim Rejections-35 USC § 103**

The Examiner rejected claims 2-6, and 21 under 35 USC § 103 (a) as being unpatentable over United States Patent 4,911,091 to Allen.

In making this rejection, the Examiner stated as follows:

Allen teaches all of the subject matter of the above claims except an apparatus for recording information, and a comparator. In the examiner's opinion it would have been obvious to give a data entry person the information that was obtained by a physician during a physical examination via an apparatus for recording. Such is commonplace in a modern medical office. Further, to compare information, as explicitly claimed in Claims 5 and 6, in order to reduce error and provide for a more accurate catalog of information on a patient would have been obvious to one of ordinary skill in the art. Still further, the methodology set forth in claim 21 is obvious and commonplace. Physicians typically handwritten information relating to the patient and give this information to a data entry person in order to have computerized record of the patient's condition as well as health insurance information. Also, it would have been obvious whether one or two people were involved in the examination of the patient

and the subsequent recording of information.

One person could just as easily have done it.

The rejection of Claims 2 through 6 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Allen is traversed for several important reasons.

Claim 2 has been amended to correct an inadvertent preference to a first person. Claim 21 has been amended to sharply and clearly distinguish the step of comparing over the prior art. As amended, Claim 21 now provides the following step "comparing said patient report and said recorded indicia to verify the accuracy of the information."

Clearly, Allen discloses a penboard/LCD recording device that is used by a physician or healthcare person during an examination of a patient. The device records information in a central computer with respect to observations during the exam and entered by the physician or healthcare person using a penboard. Bar codes on the penboard are used to identify each category. This apparatus requires that the physician or healthcare person scan the appropriate bar code.

In Claim 1, as well as Claims 2 through 6 and 21, bar codes are not used. Instead indicia are entered onto a form, which may be computerized and displayed on a computer display screen. The indicia correspond to code words that are uttered, spoken or communicated by the physician or healthcare person during a patient examination. This frees the physician or healthcare

person from actually having to manually enter the indicia, as is the case in Allen. In this invention, an assistant can enter the indicia. In Allen, the indicia (bar codes) are permanently printed on a form. The physician or healthcare person must select the bar code.

Likewise, the Examiner's attention is directed to the following exemplary language which is contained in Claim 1:

a recording means for recording on the  
preprinted format and in the appropriate discrete  
recording section one of a predetermined encoded  
indicia representing information developed for a  
designated condition;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention, as claimed in Claims 1 through 6 and 21, a transcriber or processor or the step of processing reads the indicia and generates an optional text variable segment by decoding the indicia. For example, Claim 1 states as follows:

said transcriber being responsive to said  
encoded indicia recorded in said at least one  
discrete report section to decode the  
optional text variable segment assigned to  
one of the predetermined encoded indicia;

The Examiner must appreciate that the apparatus of Allen would have to be significantly modified to meet the limitations set forth above. Further, Allen discloses, teaches and suggests that the user or health care professional has to personally scan or enter the bar codes. This requires the user or healthcare professional to divert attention from the examination to personally scan or enter the bar codes. Further, Allen's use of permanently encoded indicia teaches away from Applicant's claimed invention.

With respect to Claims 2 through 6, bar codes are not used. Instead, indicia are entered onto a form, which may be computerized and displayed on a computer display screen. The indicia correspond to code words that are uttered, spoken or communicated by the physician or healthcare person during a patient examination. This frees the physician or healthcare person from actually having to manually enter the indicia, as is the case in Allen. In the present invention, an assistant can enter the indicia. In Allen indicia (bar codes) are permanently printed on a form. In Allen, the physician or healthcare person must select the bar code.

The Examiner's attention is directed to Claim 2 which defines the input device as follows:

an input device operative with said  
apparatus for recording medical information  
communicated by a first person to a second

person during a physical examination of the designated patient, said information being recorded by said second person on the apparatus in the form of predetermined encoded indicia;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention as claimed in Claims 1 through 6, a transcriber reads the indicia and generates an optional text variable segment by decoding the indicia.

The Examiner's attention is directed to the following language in Claim 2 which states as follows:

said processor being operative to decode each of said one of the predetermined encoded indicia into its assigned optional text variable segment in said at least one discrete recording section and storing the same in a retrievable format.

The Examiner must appreciate that the apparatus of Allen would have to be significantly modified to meet the limitations set forth above. Further, Allen discloses, teaches and suggests that the user or health care professional has to personally scan or enter the bar codes. This requires the user or healthcare professional to divert attention from the examination to personally scan or enter the bar codes. Further, Allen's use of

permanently encoded indicia teaches away from Applicant's claimed invention.

With respect to method Claim 21, bar codes are not used. Instead indicia are entered onto a form, which may be computerized and displayed on a computer display screen. The indicia correspond to code words that are uttered, spoken or communicated by the physician or healthcare person during a patient examination. This frees the physician or healthcare person from actually having to manually enter the indicia, as is the case in Allen, because an assistant can enter the indicia. In Allen, indicia (bar codes) are permanently printed on a form. In Allen, the physician or healthcare person must select the bar code.

The Examiner's attention is directed to the following step in Claim 21 which states as follows:

recording by a second person on a  
recording device in a predetermined format  
said first information of the condition  
communicated by the first person during the  
examination of the designated condition  
resulting in recorded indicia;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention as stated in Claim 21, the



indicia are processed to produce an optional text variable segment by decoding the indicia.

The Examiner's attention is directed to the following step in Claim 21:

processing said recorded indicia to produce in a programmable format a patient report containing the information of the designated condition; and

In Allen, there are no means for verifying that the patient report and the recorded indicia are accurate.

The Examiner's attention is directed to the following step in Claim 21:

comparing said patient report and said recorded indicia to verify the accuracy of the information.

For all the above reasons, Claims 1 through 6 and 21, as amended, sharply and clearly define patentable subject matter under 35 U.S.C. § 103(a) over Allen.

The Examiner rejected Claims 7 through 20 and 22 through 33 under 35 U.S.C. § 103(a) Allen, United States Patent 4,991,091 in view of Buchanan et al United States Patent 5,267,155. In making this rejection, the Examiner stated as follows:

Allen teaches all of the subject matter of the above claims except for a recording member with a plurality of recording sections

formed thereon and a computer having a plurality of report section templates stored therein. To have a recording member with a plurality of sections thereon would have been obvious in order to allow an orderly and concise representation of data and other information obtained by a physician to be presented to a data entry person. Further, the indicia of Allen are considered to be the predetermined encoded indicia called for in claim 7. Also, Buchanan teaches using a plurality of templates store in a computer. such a [an] arrangement would have been obvious in that, as is taught in Buchanan, one template would not cover all situations or patient conditions. Thus, it would have been obvious to use multiple templates to provide for a greater range of reports that could be generated. Still further, all of the method steps outlined in the above claims are typical and common procedure performed in a variety of physician office settings.

The rejection of Claims 7 through 20 and 22 through 33 under 35 U.S.C. § 103(a) as being unpatentable over Allen, United

States Patent 4,991,091 in view of Buchanan et al United States Patent 5,267,155 is traversed for several important reasons.

With respect to Claims 7 through 20 and 22 through 33, bar codes are not used. Instead indicia are entered onto a form, which may be computerized and displayed on a computer display screen. The indicia correspond to code words that are uttered, spoken or communicated by the physician or healthcare person during a patient examination. This frees the physician or healthcare person from actually having to manually enter the indicia, as is the case in Allen. In the invention covered by Claims 7 through 20 and 22 through 33, an assistant can enter the indicia. In Allen, indicia (bar codes) are permanently printed on a form. In Allen, the physician or healthcare person must select the bar code.

In claim 22, the Examiner's attention is directed to the following step:

recording by a second person on a  
recording device in a predetermined encoded  
indicia format the patient medical  
information communicated by the first person  
during the physical examination of the  
patient;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention as covered by claims 22 through

33, the indicia are processed to produce an optional text variable segment by decoding the indicia.

The Examiner's attention is directed to Claim 22 which states as follows:

processing said predetermined encoded indicia recorded by the recording device to produce in a programmable format a patient report containing the patient medical information;

In Allen, there are no means for verifying that the patient report and the recorded indicia are accurate.

The Examiner's attention is directed to Claim 22 which states as follows:

comparing the patient medical information on the patient report with the patient medical information recorded by the recording device in said predetermined encoded indicia format to verify the accuracy of the patient medical information on the patient report.

Allen discloses a penboard/LCD recording device that is used by a physician or healthcare person during an examination of a patient. The device records information in a central computer with respect to observations during the exam and entered by the physician or healthcare person using a penboard. Bar codes on

the penboard are used to identify each category. This apparatus requires that the physician or healthcare person scan the appropriate bar code.

Buchanan, et al define document templates or "boiler plates" that have holes that are filled by selecting phrases for insertion into a template.

With respect to claims 7 through 16, a physician or healthcare person verbally communicates, utters or communicates in another form, e.g., hand signals, keywords that are predefined. The keywords so communicated are entered into appropriate places on a form. The form is input into a computer that decodes the keywords into text that is inserted at appropriate places in a report template. The computer then prints a patient report that has a full text narrative in the appropriate spaces on the report. For accuracy, the patient form is compared with the input form.

In both Allen and Buchanan, et al, a user must select keywords or indicia. In Allen the selection is by means of a scanner scanning a bar code. In Buchanan, et al, the selection is from a menu. In either case, the physician or healthcare person is personally involved in the mechanics of report generation.

With respect to Claim 7, the Examiner's attention is directed to the following element which states as follows:

an input member for recording medical information communicated by a first person to a second person during a physical examination of the designated patient, said information being recorded by said second person in the recording member in the form of predetermined encoded indicia in at least one recording section of said recording member;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention as defined by claims 7 through 20, a computer reads the indicia and generates an optional text variable segment by decoding the indicia.

In Buchanan, et al, character strings are displayed. A user selects a character string to replace on option-text variable with the string selected. Thus, document templates or "boiler plates" have holes that are filled by selecting phrases (a character string) for insertion into the template. There is no disclosure, teaching or suggestion of a computer being operative to decode predetermined encoded indicia recorded in a recording member into the assigned optional text variable segment. There is no decoding function shown in Buchanan, et al.

The Examiner's attention is again directed to Claim 7 and to the element which states as follows:

said computer being operative to decode each  
of said one of the predetermined encoded  
indicia recorded in the recording member into  
the assigned optional text variable segment  
in each applicable discrete recording section  
and storing the same in a retrievable memory  
location;.

With respect to Claims 17 through 20 of Applicant's invention, a physician or healthcare person verbally or otherwise communicates using other forms of communication, e.g., hand signs, keywords that are predefined. The keywords or communicated information are entered into appropriate places on a form. The form is input into a computer that decodes the keywords into text that is inserted at appropriate places in a report template. The computer then prints a patient report that has a full text narrative in the appropriate spaces on the report. For accuracy, the patient form is compared with the input form.

In both Allen and Buchanan, et al, a user must select keywords or indicia. In Allen the selection is by means of a scanner scanning a bar code. In Buchanan, et al the selection is from a menu. In either case, the physician or healthcare person is personally involved in the mechanics of report generation.

The Examiner's attention is direct to that portion of Claim 7 which states as follows:

an input member for recording medical information verbally communicated by a first person to a second person during a physical examination of the designated patient, said information being recorded on the recording member by said second person in the form of predetermined encoded indicia in at least one discrete recording section of said recording member;

In Allen, once the indicia have been selected by scanning the bar code, corresponding indicia information is loaded into a memory. In Applicant's invention, a computer reads the indicia and generates an optional text variable segment by decoding the indicia.

In Buchanan, et al, character strings are displayed and a user selects a character string to replace on option-text variable with the string selected. Thus, document templates or "boiler plates" have holes that are filled by selecting phrases (a character string) for insertion into the template. There is no disclosure, teaching or suggestion of a computer being operative to decode predetermined encoded indicia recorded in a recording member into the assigned optional text variable segment. There is no decoding function shown in Buchanan, et al. —



The Examiner's attention is directed to the following portion of Claim 17 which states:

said transcriber being operative to decode  
each of said one of the predetermined encoded  
indicia recorded on said recording member  
into the optional text variable segment  
assigned thereto for each applicable discrete  
recording section;.

For all of the above reasons, the rejection of Claims 7 through 20 and 22 through 33 under 35 U.S.C. § 103(a) as being unpatentable over Allen, United States Patent 4,991,091 in view of Buchanan et al United States Patent 5,267,155 has been overcome.

#### **Summary**

Since the claims have been amended to overcome Examiners rejections thereof, or have otherwise been distinguished over the references cited, reconsideration and allowance of claims 1-33 is respectfully requested. For these reasons, this Application is believed to be in condition for allowance. Therefore, the

Examiner is respectfully requested to issue a Notice of  
Allowability and a formal NOTICE OF ALLOWANCE.

Respectfully submitted,



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